

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 7606 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

PARASRAM YUVRAJ LONARI

Versus

STATE OF GUJARAT

Appearance:

MR RS SANJANWALA for Petitioners

MR. S. S. PATEL for Respondent No. 1

CORAM : MR.JUSTICE J.R.VORA

Date of decision: 17/12/1999

ORAL JUDGEMENT

#. Rule. Learned A.P.P. Mr. S.S.Patel waives. This is an application filed by the petitioner for quashing of a complaint against the petitioners no.1 and 2 before Songadh Police Station under Sec.70(1) of the Bombay Prohibition Act. As per the allegations on 10.12.99 at 8:45 a truck bearing NO.KA-28-7915 bearing rotten gur was

intercepted by Police Inspector, Songadh Prohibition Station and when since truck was loaded with rotten gur, the gur was seized and this complaint bearing Crime Register No.434/99 was filed.

#. It is urged on behalf of the petitioner that the truck was destined to the State of Maharashtra and was loaded with gur from the State of Karnataka and was on only available route through the State of Gujarat. The truck was intercepted by the police as aforesaid. Excise Department have declared that for transiting of the rotten gur no licence or permit is necessary. It is also urged that since the truck was in transit no offence under the Prohibition Act by virtue of Sec.70 (1) has been prima facie made out.

#. In similar circumstances earlier in so many occasion this court has taken view that when rotten gur is in transit no prima facie offence is made out under the Prohibition Act, as has been sought to be made out in this complaint. The decisions of this court are as under:-

(1) Special Criminal Application No.4 & 5 of 1986

As decided on 28.1.86 (Coram: G.T.Nanavati, J)

(2) Criminal Misc. Application No.774/85 and 775/85

As decided on 1.7.85 (Coram: D.C.Gheewala,J.)

(3) Misc. Cri. Application No.4763/98

As decided on 27.11.98

(Coram: Miss Justice R.M.Doshit)

(4) Misc. Cri. Application Nos.2785/91, 2786/91, 2787/91 and 2788/91

As decided on 25.8.93 (Coram: N.J.Pandya, J)

(5) Misc. Cri. Application No.3041/95 and 3044/95

(Coram : S.M.Soni, J)

(6) Cri. Misc. Application No.482/95

As decided on 10.2.95 (Coram: R.A.Mehta,J)

(7) Misc. Cri. Application No.750/96

As decided on 13.9.95 (Coram: J.M.Panchal, J)

#. For the reasons stated in the above mentioned decisions of this court, this application is required to be allowed and hence following order is passed.

O R D E R

1. FIR bearing Crime Register No.434/99 of Songadh Police Station is hereby quashed and all the proceeding taken in pursuance of that FIR is also quashed.

2. The muddamal i.e. gur seized from the truck in pursuance of the above said FIR in question be released to the petitioner no.3 on giving his undertaking to the court of Magistrate concerned, that the goods shall not

be stored or used or consumed in Gujarat State territory and will be taken to its destination, out of the limit of State of Gujarat.

3. The petitioners shall carry goods in question under the police squad to be given by the police authority at the cost of the petitioner

4. The truck bearing registration No.KA-28-7915 shall be released in favour of the petitioner no.1 after appropriate verification.

5. Rule is made absolute to that extent.

6. Direct Service is permitted.